

REMARKS

In response to the Office Action mailed on November 18, 2008, Applicants respectfully request reconsideration based on the above claim amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1-11 and 16-29 are pending. Claims 11 and 21-29 have been allowed. Claims 16 and 20 have been amended and Claims 1-10 have been canceled, leaving Claims 16-20 for further consideration upon entry of the present amendment. No new matter has been added by the amendment.

Support for Claim Amendments

The amendments to independent Claims 16 and 20 are fully supported in Applicants' specification. See, for example, paragraphs [0022], [0023] and [0026]-[0036], as well as FIGs. 2 and 3 in the specification as originally filed.

Claim Rejections - 35 U.S.C. § 112

Claims 1-10 and 16-20 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner states that there is no support for "calculating bandwidth contribution for the access port side and the non-access port side" in the specification. While Applicants respectfully disagree with this assertion (see, for example, paragraphs [0022] and [0023], as well as FIG. 2), Applicants have canceled Claims 1-10 and removed the limitation from Claims 16 and 20. Thus, Applicants submit that the rejection is moot and should be withdrawn. Since Claims 17-19 depend from Claim 16, Applicants respectfully submit that the rejection of Claims 17-19 under 35 U.S.C. § 112, first paragraph, should also be withdrawn.

Claims 1-10 and 16-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting what the Examiner deems to be essential steps.

Although Applicants respectfully disagree with the Examiner's assertion, Applicants have canceled Claims 1-10 and amended Claims 16 and 20 with additional steps in the interest of compact prosecution. Accordingly, the rejection of Claims 1-10 is moot, and the rejection of Claims 16 and 20 should be withdrawn. Since Claims 17-19 depend from Claim 16, Applicants respectfully submit that the rejection of Claims 17-19 under 35 U.S.C. § 112, second paragraph, should also be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 1-10 and 16-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ngo et al. (US 2004/0042416, hereafter Ngo) in view of Balakrishnan et al. (US 2004/0196790, hereafter Balakrishnan). Applicants respectfully traverse the rejection and submit that Ngo in view of Balakrishnan does not teach or suggest all of the elements of Claims 1-10 and 16-20.

Claims 1-10 have been canceled, thus the rejection is moot and should be withdrawn.

Claim 16 now recites, *inter alia*, “calculating a current access port side bandwidth requirement responsive to said VLAN; calculating a potential access port side bandwidth requirement responsive to said VLAN and to said target access port; calculating a current non-access port bandwidth requirement responsive to said VLAN; and determining said bandwidth contribution of said target access port by subtracting the minimum of said current access port side bandwidth requirement compared to said current non-access port bandwidth requirement from the minimum of said potential access port side bandwidth requirement compared to said current non-access port bandwidth requirement”. Applicants respectfully submit that Ngo in view of Balakrishnan does not teach or suggest at least these elements. For at least this reason, Claim 16 is patentable over Ngo in view of Balakrishnan.

With respect to Claims 17-19, Ngo in view of Balakrishnan does not teach or suggest all of the elements of Claim 16, from which Claims 17-19 depend. Specifically, Ngo in view of Balakrishnan does not teach or suggest, “calculating a current access port side bandwidth requirement responsive to said VLAN; calculating a potential access port side bandwidth requirement responsive to said VLAN and to said target access port; calculating a current non-access port bandwidth requirement responsive to said VLAN; and determining said bandwidth contribution of said target access port by subtracting the minimum of said current access port side bandwidth requirement compared to said current non-access port bandwidth requirement from the minimum of said potential access port side bandwidth requirement compared to said current non-access port bandwidth requirement” as recited in Claim 16. Thus, Ngo in view of Balakrishnan does not teach or suggest all of the elements of Claims 17-19. For at least this reason, Claims 17-19 are patentable over Ngo in view of Balakrishnan.

With respect to Claim 20, Ngo in view of Balakrishnan does not teach or suggest all of the elements of Claim 20. Specifically, Ngo in view of Balakrishnan does not teach or suggest, “calculating a current access port side bandwidth requirement responsive to said VLAN; calculating a potential access port side bandwidth requirement responsive to said VLAN and to said target access port; calculating a current non-access port bandwidth requirement responsive to said VLAN; and determining said bandwidth contribution of said target access port by subtracting the minimum of said current access port side bandwidth requirement compared to said current non-access port bandwidth requirement from the minimum of said potential access port side bandwidth requirement compared to said current non-access port bandwidth requirement” as recited in Claim 20. For at least this reason, Claim 20 is patentable over Ngo in view of Balakrishnan.

Conclusion

Applicants are not conceding in this application that the original claims are not patentable over the art cited by the Examiner. Rather, the present claim amendments and cancellations are only for facilitating expeditious prosecution in light of the allowable subject matter as noted by the Examiner. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

It is believed that the foregoing remarks are fully responsive to the Office Action and that the claims herein should be allowable to the Applicants. In the event the Examiner has any queries regarding the instantly submitted response, the undersigned respectfully request the courtesy of a telephone conference to discuss any matters in need of attention.

If there are any additional charges with respect to this Response or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully Submitted,

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